

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 2:07-cr-012-MEF
	)	(WO)
GREGORY LEWIS DAVIS	)	

**ORDER**

On September 19, 2007, the defendant filed a Motion to Continue Trial (Doc. #43). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states that as a result of this court's denial of defendant's motion to suppress, the parties are now negotiating a resolution of this case. The negotiation of the terms of the plea agreement cannot be completed in time for the defendant to provide timely notice of his intent to change his plea from not guilty to guilty. Counsel for the government

does not opposed the motion to continue. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendant's motion filed on September 19, 2007 is GRANTED;
2. That the trial of this case is continued from the October 2, 2007 trial term to the November 5, 2007 trial term.

DONE this 20th day of September, 2007.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE